

IN THE CLAIMS:

1. (Currently Amended) An isolated polynucleotide [~~which encodes a *Bacillus thuringiensis* encoding a *Bacillus* species~~ insecticidal ~~[toxin or insecticidal fragment thereof, wherein said polynucleotide hybridizes under with one or more of the nucleotide sequences selected from the group consisting of SEQ ID NO:2, SEQ ID NO:3 (tie901), SEQ ID NO:5(tie1201), SEQ ID NO:7 (tie407), SEQ ID NO:9 (tie417), and SEQ ID NO:32 or with the complement thereof encoding an insecticidal]~~ protein toxic to an insect pest, wherein said protein comprises the amino acid sequence substantially as set forth in SEQ ID NO:6.

2. (Currently Amended) The isolated polynucleotide of claim 1, wherein said toxin is active against a coleopteran insect pest.

3. (Currently Amended) The isolated polynucleotide according to claim 2, wherein said coleopteran insect pest is selected from the group consisting of a corn rootworm and a Colorado potato beetle.

4. (Currently Amended) The polynucleotide according to claim 3, wherein said corn rootworm is selected from the group consisting of a western corn rootworm, a southern corn rootworm, or a northern corn rootworm.

5. (Currently Amended) The polynucleotide according to claim 1, comprising the nucleotide sequence as set forth in [wherein said nucleotide sequence is SEQ ID NO:3,] SEQ ID NO:5[, ~~SEQ ID NO:7, SEQ ID NO:9, and SEQ ID NO:32~~].

6. (Currently Amended) [A] The polynucleotide of claim 1 comprising a modified nucleotide sequence [~~which encodes an approximately 34 to about 39 kDa toxin active against a coleopteran pest, wherein said nucleotide sequence has been optimized]~~ intended for [expression] use in plants[, and [wherein said toxin comprises] encoding substantially the amino acid sequence [selected from the group consisting of SEQ ID NO:2, SEQ ID NO:4,] as set forth in SEQ ID NO:6[, ~~SEQ ID NO:8, SEQ ID NO:10, and SEQ ID NO:33]~~ from amino acid position 44-365].

7. (Currently Amended) A host cell transformed to contain a polynucleotide comprising a modified nucleotide sequence intended for use in plants and encoding substantially the amino acid sequence as set forth in SEQ ID NO:6 from amino acid position 44-365 ~~(an insecticidal protein or insecticidal fragment thereof wherein said polynucleotide comprises a nucleotide sequence as set forth in a sequence selected from the group consisting of SEQ ID NO:3, SEQ ID NO:5, SEQ ID NO:7, SEQ ID NO:9, and SEQ ID NO:32).~~

8. (Currently Amended) The host cell of claim 7, wherein said host cell is ~~[selected from the group consisting of]~~ a plant cell~~[- a bacterial cell, a fungal cell, an insect cell, and a mammalian cell].~~

9. – 13. (Cancelled)

14. (Currently Amended) A method for detecting a ~~[first nucleotide sequence]~~ polynucleotide from a *Bacillus* species encoding an insecticidal protein exhibiting an amino acid sequence substantially as set forth in SEQ ID NO:6 from amino acid position 44-365, wherein said ~~[first nucleotide sequence]~~ polynucleotide hybridizes to ~~[a second]~~ the nucleotide sequence ~~[that is]~~ selected from the group consisting of SEQ ID NO:2, SEQ ID NO:3 (tic901), SEQ ID NO:5(tic1201), SEQ ID NO:7 (tic407), SEQ ID NO:9 (tic417), and SEQ ID NO:32 (tic431) or with the complement thereof under stringent hybridization conditions.

15. – 17. (Cancelled)

18. (Currently Amended) The ~~[method according to]~~ host cell of claim [47] ~~8~~ [wherein said host cell is a plant cell] selected from the group of plant cells comprising a monocot plant cell and a dicot plant cell.

19. (Currently Amended) The ~~[method according to]~~ host cell of claim 18 wherein said monocot plant cell is selected from the group of plant cells comprising a corn plant cell, a wheat plant cell, a rice plant cell, an oat plant cell, an onion plant cell, and a grass plant cell.

20. (Currently Amended) The ~~[method according to]~~ host cell of claim 18 wherein said dicot plant cell is selected ~~[fro]~~ from the group of plant cells comprising a cotton plant cell, a canola plant cell, a soybean plant cell, a fruit tree plant cell, an okra plant cell, a pepper plant cell, an ornamental plant cell, a sunflower plant cell, a cucurbit plant cell, and a melon plant cell.

21. (Currently Amended) An isolated nucleic acid molecule ~~[comprising a polynucleotide sequence]~~ encoding a *Bacillus* species toxin protein ~~[wherein said toxin protein comprises a sequence]~~ that exhibits at least about ~~[70]~~78% sequence identity to ~~[a nucleotide sequence selected from the group of]~~ the amino acid ~~[sequences consisting of SEQ ID NO:2, SEQ ID NO:4,]~~ sequence as set forth in SEQ ID NO:6[, SEQ ID NO:8, SEQ ID NO:10, and SEQ ID NO:33,] from amino acid position 44-365 or a coleopteran-[active]toxic variant or portion thereof.

22. – 26. (Cancelled)

27. (Currently Amended) A recombinant DNA construct, comprising a polynucleotide sequence encoding [an] a *Bacillus* species insecticidal protein[, ~~wherein said polynucleotide sequence is~~] exhibiting at least about ~~[70]~~78% ~~[identical]~~ identity to the amino acid sequence as set forth in SEQ ID NO:[43]6 from amino acid position 44-365[, ~~said insecticidal protein being selected from the group consisting of all or an insecticidal fragment of a protein as set forth in~~ SEQ ID NO:4, SEQ ID NO:6, SEQ ID NO:6, SEQ ID NO:10, and SEQ ID NO:33].

28. (Cancelled) ~~[The recombinant DNA construct of claim 27, wherein said polynucleotide sequence is as set forth in SEQ ID NO:9].~~

29. – 34. (Cancelled)

35. (Currently Amended) ~~[A]~~ The recombinant DNA construct ~~[host cell transformed with a polynucleotide sequence]~~ of claim 27 for use in producing a recombinant host cell,

wherein said ~~[encoding an]~~ insecticidal protein is selected from the group consisting of SEQ ID NO:4, SEQ ID NO:6, SEQ ID NO:8, SEQ ID NO:10, and SEQ ID NO:33.

36. (Currently Amended) The recombinant ~~[host cell]~~ DNA construct of claim 35, wherein said recombinant host cell is a plant cell.

37. – 47. (Cancelled)

48. (New) The isolated polynucleotide of claim 1, wherein said *Bacillus* species is selected from the group consisting of a *Bacillus thuringiensis*, a *Bacillus sphaericus*, and a *Bacillus laterosperous*.